

## Expression over Content

An examination of the language of international law

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In this short piece I will argue that international law, in order to gain access to its revolutionary potential, needs to create a new linguistic opening. This linguistic opening needs to be located within the expression as opposed to content of international law. In this sense this piece is not situated on the continuum of the existing international law and literature studies. It also develops an argument different from widely known writings of such scholar as Martti Koskenniemi, David Kennedy and others working within a similar tradition, who all focus on the interpretation and analysis of the language of international law and more specifically its content. Another note of caution relates to the understanding of the term ‘expression’ as used in this piece. While traditionally the

content is opposed to form, as many binaries content and form shape each other and are interdependent. Expression is not related to any particular form but at the same time destroys our traditional understanding of content. It is not devoid of content in the sense of being meaningless, but it opens an access to another, different way of communicating. It is precisely this different way of communicating that is able to bring about a revolutionary change.

In order to develop the argument, I use the reflections on minor literature developed by Gilles Deleuze and Felix Guattari in a short essay entitled ‘ Kafka: Towards a Minor Literature’ (Gilles Deleuze and Félix Guattari, *Kafka: pour une littérature mineure* (Les éditions de minuit, 1975). Translated into English as *Kafka: Towards a Minor Literature* (University of Minnesota Press, 1986)).

### **Minor literature and revolutionary use of language**

Deleuze and Guattari start by emphasising something that today appear common knowledge, namely that language is not a-political. However, they develop this idea to the extreme and affirm that every single instance of using a language, any language, puts in motion political forces. These forces can operate to maintain the status quo and thus exclusions and injustices or contest them. When operating as a contestation force, language can tend to create new hierarchies by simply reversing the power structures or can work towards dismantling of power structures as such. This is what Deleuze and Guattari call revolutionary use of language. Every language creates multiple centres of power. To change the power balance we need to change the use of language. According to Deleuze and Guattari one of the revolutionary uses of language is exemplified by Kafka's work

and labelled as minor use of language or minor literature. Minor literature as interpreted by Deleuze and Guattari does not designate any specific type of literature or literary genre but 'the revolutionary conditions for every literature within the heart of what is called great (or established) literature' (18). According to Deleuze and Guattari the following are the three characteristics of the minor literature:

- 'the deterritorialization of language,
- the connection of the individual to a political immediacy,
- and the collective assemblage of enunciation.' (18)

### **Intensive usage of language (expression)**

Within the context of this short piece it is not possible to detail all these characteristics. Therefore, I will focus on one that is related to deterritorialisation, namely the intensive usage of language where expression precedes content. This is what was meant by the linguistic opening within the expression of international law. Deterritorialisation is a complex notion that is developed by Deleuze and Guattari in various works. To illustrate it for the purposes of this piece, we can think of the examples, used by Deleuze and Guattari themselves: a Czech Jew writing in German, or an Ouzbekian in Russian (18). Deterritorialisation of language always operates to subvert the existing hierarchies of power. However, the forces contained within language will always attempt at reterritorialising the language, e.g. by creating a new power structure, a new hierarchy. (19) It is in this context that Deleuze and Guattari ask what is the type of deterritorialisation that will allow depositing all power. They answer this question by identifying the purely intensive usage of language as one that by 'pushing deterritorialisation to such an extreme that nothing remains but intensities' (19) deposits all power. This intensive usage is defined in

opposition to 'all symbolic or even significant or simply signifying usages of it' (19). In this usage expression precedes content. Among the examples of this intensive usage of language Deleuze and Guattari mention are the following: use of sounds that do not belong to language of a sense nor represent a music or melody (21); use of prenominal or purely intensive verbs, conjunctions, exclamation and terms that connote pain (22); or very expressively: 'To use a syntax in order to cry, to give a syntax to the cry.' (26) These are just a few examples, but importantly, intensive usage of language, precedence of expression over content allows a direct and immediate access to emotion, feeling and lived experience of people.

### **The language of international law**

International law operates mostly in English language with strict disciplinary conventions of writing. This certainly does create power imbalances in favour of native English speakers. However, Deleuze and Guattari's discussion of minor literature teaches us that operating in a native or foreign language does not determine the outcomes, although being a non-native speaker can potentially provide more avenues for a revolutionary use of language. What is determining is how we use the language. One can become a foreigner, a nomad in his/her own language by being aware of consequences of our uses of language.

International law that operates with strict conventions about appropriateness of certain types of writing only – and here I mean the whole body of written production from scholarly articles and monographs to judgments and treaties – cannot experience this revolutionary movement if it does not enlarge the range of different usages of language that are

accepted within the discipline. Deleuze and Guattari emphasise that even a major language (like the English of international law) 'is open to an intensive utilization that makes it take flight along creative lines of escape which, no matter how slowly, no matter how cautiously, can now form an absolute deterritorialisation.' (26) They also emphasise that non-native speakers can be particularly skilful in this intensive usage of language. Taking into account how many people involved with international law have to operate in a language that is not their own, potentially there are many opportunities for international law to discover its new linguistic opening. However, so far any person who wants to speak to international law or wants to speak about international law has to acquire the standard international law language. People from linguistic minorities or indigenous people or those who simply are not used to the language of international law can only get access to international law through an intermediary either of a person who will speak on their behalf in the standard language or of a language that they artificially adopt.

## **Conclusions**

I am persuaded that a careful reading of this short essay by Deleuze and Guattari makes clear that without changing, without attempting to change the way we use language in international law, we will always be caught within the same circles and interrogations, with the same problems that we re-discuss infinite number of times. The new in international law and especially any revolutionary change will be impossible as long as the current conventional linguistic practices remain unchallenged and centred on however critical discussion of content without creating an opening for expression. As long as the conventional linguistic practices

remain unchallenged power imbalance and injustice that are part of the structure of international law will also remain and international law will never be able to come closer to its promise of justice.

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